

**LOYOLA UNIVERSITY NEW ORLEANS**  
**STUDENT CODE OF CONDUCT**  
**2020-2021**

**VI. Procedures For Cases Except Those Brought Pursuant to Student Affairs Title IX Policy**

**1. Hearing bodies and disciplinary procedures**

Charges based on alleged Code of Conduct violations may be brought against any student. The University utilizes Administrative Hearings and the Student Justice Board in order to adjudicate student cases. The choice of which of these two to use in any particular case is left to the sole discretion of VPSA/AP or designee.

The University does not allow conflicts of interest, real or reasonably perceived, by those investigating or adjudicating allegations under this policy or its related procedures. Individuals who wish to challenge a hearing or appellate body of a conflict of interest may do so by filing a written challenge to the Chief Student Conduct Officer. This challenge must be filed within three business days of the individual being notified of the identity of the officer or board members.

For the sake of clarity, hearings pursuant to this Code are designed to determine whether it is more likely than not that a violation of this Code has been committed. The hearing bodies are not courts of law and their proceedings are not legal in nature. Formal rules of evidence applied in legal proceedings will play no role whatsoever in a hearing body's work other than the hearing body will endeavor to consider evidence which in its sole discretion is relevant.

**a. Original Hearing Bodies**

- Administrative Hearing Officer.** An Administrative Hearing is held between the charged student and a hearing officer(s), who may impose sanctions consistent with the *Code of Conduct*, University policy, and the offense under consideration. Decisions are final and sanctions are implemented pending appeals.
- Student Justice Board.** The Student Justice Board (SJB) consists of 10 members selected via an interview process and then vetted through the CSCO or designee. All appointments are for one academic year without term limits. All SJB Hearings are conducted by a panel of three persons selected by the VPSA/AP or designee, and are advised by the CSCO or designee. Decisions are made by a majority vote. The CSCO or sits in on all proceedings to ensure the proper procedures are administered and assure compliance with guidelines set forth in the Code of Conduct. The SJB may recommend sanctions consistent with the Code of Conduct, University policy, and the offense under consideration. SJB sanction recommendations are sent for review to the VPSA/AP or designee, who will make a final decision about appropriate sanctions.

**b. Appellate Body**

- Appellate Officer.** The VPSA/AP, or designee, is authorized to receive all appeals of disciplinary decisions from the Student Justice Board and Administrative Hearings.
- University Board of Appeals** The University Board of Appeals (UBA) consists of 15 members represented equally by faculty, staff, and students appointed by the Faculty Senate, the VPSA/AP (who is not eligible for membership), and SGA respectively. The UBA is authorized to receive all appeals of disciplinary decisions from the Student Justice Board and Administrative Hearings. All UBA reviews are conducted by a panel of three persons and are decided by a majority vote. All appeal reviews are advised by the CSCO, or designee. The CSCO or designee sits in on all proceedings to ensure the proper procedures are administered and assure compliance with guidelines set forth in the Code of Conduct and to answer process questions the appellate board may have about the hearing being appealed. In cases where decisions of the CSCO or their designee are being appealed, the VPSA/AP will advise the appellate board. Recommendations of appellate body are

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final except in cases of disciplinary suspension and dismissal which are forwarded to the University President for final review and disposition.

**2. Selection and operating procedures of hearing bodies**

Complainants and charged students will be given the option to challenge all board members and hearing officers on the ground of personal bias. Board members and hearing officers should also disqualify themselves on these grounds and will be notified of any challenges in this regard. Such challenges shall be made in writing to the VPSA/AP at least 24 hours prior to the commencement of the applicable hearing. The VPSA/AP has final authority to resolve any questions of personal bias prior to the original hearing. If the student fails to timely challenge board members or hearing officers, the student waives the right to challenge any findings on the basis of any personal bias.

**3. Procedures for original hearings**

All reports of conduct violations are preliminarily reviewed by the CSCO or designee to determine, assuming all of the facts presented in the reports are true, whether the conduct alleged gives rise to a potential Code of Conduct violation. If it does, the charged student can request a preliminary conduct meeting between the charged student and CSCO or designee.

At that preliminary conduct meeting, if requested, the charged student will be notified about the alleged Code of Conduct violation and which hearing body has been assigned the case. The charged student will also be informed of their rights under the Code of Conduct. At the preliminary conduct meeting, the charged student or group may accept responsibility for the alleged violation. In this case, the CSCO or designee will propose an appropriate sanction. If the student or group agrees to the proposed sanction, the student or group waives their right to a hearing and appeal, the resolution becomes final, and the outcome is recorded on the student's or group's conduct history. If the case involves a complainant, he/she will be notified of the charged student's decision to take responsibility for the action and the sanctions determined by the conduct officer. If both the charged student and complainant accept the sanctions, no conduct hearing is convened and the process is considered complete and may not be appealed. If the charged student and/or complainant reject the sanctions, a conduct hearing will be convened. If a case is not resolved at the preliminary conduct meeting or such a meeting is not requested, it will be referred to an Administrative Hearing or to the Student Justice Board.

All members of the University community with knowledge of facts pertinent to a case are expected to cooperate fully in student conduct proceedings and investigations. A witness's unreasonable failure to cooperate in student conduct proceedings may result in conduct action against that student but will have no impact on the underlying conduct hearing or determination. Should a witness be unable to attend a hearing, the witness may submit a written statement in lieu of personal testimony.

All persons who provide testimony in a campus hearing shall be asked to affirm that their testimony is truthful. Furnishing false information to the University may result in the filing of conduct charges against students.

A complainant, witness, or victim may give testimony in a campus hearing by means other than being in the same room with the charged student(s). For the sake of clarity, no participant in this conduct process will have the right to question another witness directly.

All disciplinary hearings will take place with or without the presence of the charged student and sanctions will be handed down should they be found responsible. The victim/complainant also has the right not to be present throughout the hearing.

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If an involved party has a disability that requires accommodation throughout this process, please contact the Office of Disability Services. All approved accommodations will be communicated to Student Conduct from the Office of Disability Services.

The following procedural information is meant to serve as a general outline followed during conduct hearings.

### **a. Notice of Hearing**

The charged student and complainant will be notified, in writing/via email, about the alleged *Code of Conduct* violation and which hearing body has been assigned the case. For the sake of clarity, electronic mail sent to the student's University designated e-mail address constitutes written notice. Moreover, failure by the student to open or read electronic mail does not constitute a basis for appeal.

The written notification shall include the type, date, time, and location of the hearing. It will also identify the person designated to handle the administrative hearing or the members of the board, as applicable. It shall also make clear if the charged student and complainant are required to submit additional material (*e.g.* phone calls, texts, images, or other documentation) that may be relevant to the alleged incident. The charged student/group and complainant will be informed that they will have opportunity to respond to or supplement the complaint and will have an opportunity to present witnesses and evidence.

### **b. Hearings**

There is no time limit on how many days a hearing may last. Advisors may not participate in the proceedings except to advise the complainant or charged student. Advisors who do not follow the instructions of the hearing officer or board chair will be removed from the hearing.

### **c. Sanction Proceeding**

In a hearing, a determination that the violation was committed by the charged student shall be followed by a proceeding in which the complainant, the charged student, and appropriate University official(s) may submit information or make statements concerning the appropriate sanction to be imposed. In the Chair's discretion, the charged student may submit a limited number of character witnesses, and the complainant may submit a limited number of impact witnesses. The testimony of these character and impact witnesses will be provided in writing only. The hearing board may consider the conduct history of the charged student in the sanction proceeding.

### **d. Review of Sanctions**

Unless the Code of Student Conduct provides otherwise, decisions concerning sanctions are recommendations to the VPSA/AP or designee. Recommended sanctions may be approved, altered, deferred or withheld at the discretion of the VPSA/AP or designee. If no action is taken on the recommendation within five working days or such longer period as the responsible official designates in writing to the affected parties, the recommended sanction shall be final.

## **4. Notice of Outcome**

It is to be clearly understood that this is confidential information and is not to be shared with anyone other than those involved directly with the case. The student will normally be informed in writing (within 3-5 working days) of the hearing outcome and, if applicable, the sanction(s) imposed. The appropriate university officials will be notified of the outcome of the hearing, and parents/guardians are notified in cases of Suspension and/or Dismissal.

## **5. Possible Sanctions**

The following sanctions may be meted out for violations of the *Code of Conduct*:

- a. Conduct Reprimand.** Written warning to the student or organization indicating they have violated *Code of Conduct* policies. It further warns that if a student or organization is found in further violation of the *Code of Conduct*, within a specified period of time, there may be grounds for more severe disciplinary action.

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- b. Disciplinary Probation.** Temporary suspension of a student or organization's good standing in the University for a stated period of time as set forth in the conduct sanction letter. If a student or organization is found responsible for violating the terms of disciplinary probation during the period set up by the preceding judicial body, there may be grounds for more severe disciplinary action, including immediate suspension. At the end of the probationary period, the student or organization will be returned to good standing providing that all the terms of the probation have been successfully completed. The student or organization remains enrolled/chartered in the University but under the stated conditions of the probationary status, as outlined in the letter of disciplinary probation. A loss of privileges may occur. A letter may be written to the parents, guardians, advisors, or national office of the student/organization explaining the terms of the probationary period.
- c. Disciplinary Suspension.** Disciplinary Suspension establishes a fixed period of time during which the student or organization may not participate in any academic or other activity of the University. In cases of individual student discipline, this means that the student is physically separated from the University and must leave the campus and remain off campus during the period of suspension, unless they return for official business related to applying for readmission. Parents or guardians of a dependent student are informed of the disciplinary suspension of a student. A student that is suspended during a semester will forfeit all tuition, fees, housing, and food services monies. A grade of W will be entered into the student's academic transcript for all courses enrolled in during that semester. At the end of the suspension period, the person may be returned to good standing in the university and may apply for readmission. Academic credit received at another University during the specified period of the suspension is not transferable to Loyola University. The office of the Vice President for Student Affairs and Associate Provost must clear all students for admission who have been suspended from the University for disciplinary reasons. In cases of organizational discipline, disciplinary suspension is equivalent to student organization charter suspension. This means that an organization has no legal basis for operating on campus or at off-campus university-sponsored events, for recruiting members, or for promoting the organization, its identity, or its activities. Suspension of charter for a period of time under stated conditions means that organizations must adhere to sanction requirements or face delay of reinstatement or permanent charter revocation for repeated non-adherence to sanction conditions. Additional conditions may be imposed requiring the organization to perform or refrain from certain actions.
- d. Disciplinary Dismissal.** Disciplinary Dismissal establishes a permanent termination of student or organizational status. In cases of individual student discipline, parents or guardians are informed of all actions of dismissal, and the fact that a student has been dismissed becomes a permanent part of the student's conduct file. A student that is dismissed during a semester will forfeit all tuition, fees, housing, and food services monies. A grade of W will be entered into the student's academic transcript for all courses enrolled in during that semester. In cases of organizational discipline, disciplinary dismissal is equivalent to the permanent termination of the organizations charter. This means that an organization has no basis for operating on campus or at off-campus university-sponsored events, for recruiting members, or for promoting the organization, its identity, or its activities. Termination of charter is a permanent disciplinary sanction.
- e. Residence Hall Suspension.** Separation of the student from the residence halls for a definite period of time, after which the student is eligible to return. Conditions for readmission may be specified.
- f. Residence Hall Dismissal.** Permanent separation of the student from the residence hall both as a resident or visitor.
- g. Fines and Other Fees.** Fines may be used to cover the cost of drug testing, restitution, and/or other procedures. A violation of the Alcohol and/or Drugs and Controlled Substances policies will result in fines up to and including \$500. A procedural fine is applied if a student does not complete the

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sanction(s) assigned by a hearing board by a stated date; the student may also be restricted from registering or receiving transcripts until all sanctions are completed.

- h. Other Penalties.** Hearing officers/boards are not limited to the sanctions listed, but may impose sanctions of a less severe nature which bear a reasonable relation to the fault for which the sanction is imposed. Other sanctions may include but are not limited to attendance at substance abuse counseling, testing and group education, research papers, community service, required activities, fines, restriction or loss of privileges, counseling evaluations, and work assignments.

- 6. Record Retention and Expungement.** Individual disciplinary files that contain cases that have disciplinary suspension or dismissal as a final outcome shall be kept permanently on file. All other individual files shall be kept for five years after any sanctions expire unless they are expunged. Students may request to have their disciplinary record expunged under the conditions listed below. Expungement shall be at the sole discretion of the VPSA/AP or designee and shall require the entire record to be expunged or none of it to be expunged (i.e. no partial expungements shall be allowed). Conditions include:
- a.** Application for expungement shall occur only upon completion of all degree requirements and attainment of a degree;
  - b.** Expungement may occur only for students who have sanctions other than disciplinary suspension or dismissal and whose violations were determined to have not threatened or endangered the health or safety of any person. Students who have been suspended or dismissed are not eligible for expungement; and
  - c.** Expungement decisions shall be made based on obvious long-term improvement in behavior, or lack thereof, (e.g., no violations of the student code for two or more consecutive semesters prior to graduation), and/or evidence, or lack thereof, of cooperation in previous student judicial matters, and/or any other reasonable factor.

**7. Procedures for conduct appeals**

A student or organization found responsible for violating the *Code of Conduct* may appeal the final, approved decision of any of the University's hearing bodies. A statement citing the basis for appeal, as well as supporting statements for the basis, must be submitted via the [Appeals Submission Form](#) within five working days following notification of the outcome of the original hearing.

The appellate review will normally occur within seven working days of a student filing an appeal. An extension of the preparation period or the date of the appellate review may be granted, upon request, by the CSCO or designee. Once the appellate process has been completed, whether through an appellate decision or the expiration of time to file an appeal, the outcome is final and all sanctions go immediately into effect. The following procedural information is meant to serve as a general outline followed during the appellate process:

**a. Submission of Appeal**

An appeal can only be based upon one of the following five reasons:

- Partiality.** The inability of the hearing board member or hearing officer to refrain from acting upon predisposed or developed bias during the hearing or the determination of its outcome.
- New Evidence.** Information or material which was unable to be known at the time of the original hearing. The student is expected to demonstrate that such evidence was unable to be known. Evidence that was known or was accessible during the original hearing, but which the student chose not to or neglected to present does not constitute a sound basis of appeal. In those cases where new evidence becomes known after the period of filing for an appeal has expired, and reasonable grounds for an appeal seem substantial, access to the appellate process may be granted by the VPSA/AP.
- Disregard for Rights.** That a student was not afforded a right provided by this Code.

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- **Arbitrary and Capricious Decision.** The decision is arbitrary and capricious in that it was not made on reasonable grounds. For the sake of clarity, it is not an appropriate basis of appeal to suggest that the appellate body should replace its judgment for the judgment of the original hearing body. Rather, an appeal on the basis of arbitrary and capricious decision-making will only be granted if there is NO reasonable basis for the original decision.
- **Inappropriateness of the Sanction.** A sanction is inappropriate if it does not reflect a proper alignment between the nature of the offense, the student's previous disciplinary record, other factors which should be considered, and the sanction administered. Because these multiple factors are incorporated in each individual disciplinary decision, previous decisions do not establish precedent in University disciplinary hearings. In those cases where the appellate board believes the original hearing board or officer made a substantial misjudgment of the severity of the incident or the student's record and, in turn, the sanction administered, the appellate body may make its own recommendations.

**b. Review of Appeal**

The VPSA/AP or designee has sole discretion to assign an appeal to an Appellate Officer or a UBA. The applicable appellate body has discretion to determine the means by which it will assess the appeal. For instance, the appellate body can rely solely on the written submissions, can solicit additional information from any relevant source, and/or can conduct hearings where witnesses may be questioned and/or other information is gathered. Upon completing its review, the appellate body can either grant or deny the appeal. Such decisions are made based on a majority vote of its members when applicable.

**c. Respond to the Appeal**

In the event the appeal is granted, the appellate body must elect one of the following courses of action:

- Refer the case back to the original hearing body for a rehearing;
- Refer the case to the CSCO; or
- Make their own determinations.

Appeal decisions are final except in cases of disciplinary suspension or, dismissal which are forwarded to the University President for final review and disposition.

**8. Rights of students**

**a. Prior to the Hearing**

- The charged student and complainant are informed of their right to have the alleged violation adjudicated by the appropriate hearing body.
- The charged student and complainant are informed in writing of the hearing, in sufficient detail and in ample time that they may have an opportunity to prepare for the disciplinary. Specifically, students will be given no less than 72-hours' notice (including weekends and holidays) of an administrative hearing. In the case of a board hearing, the charged student and complainant will be given no less than seven days' notice, including weekends and holidays.
- Witnesses may be granted anonymity when in the reasonable discretion of the VPSA/AP it is necessary to afford the University meaningful information to investigate a Code violation. The charged student and complainant will be given a copy of any written statement presented by witnesses who have been granted anonymity, so they may challenge the statement and present questions to be answered by the anonymous person in a manner to be determined by the hearing authority. Anonymity will typically be granted: (a) When there is reasonable cause to believe that the safety of the witness is in jeopardy or (b) the witness may be subject to intense harassment.

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**b. During the Hearing**

- The charged student is presumed to be not responsible until proven responsible. The burden of proof rests upon the member of the university community bringing the charge.
- The victim/complainant has the right not to be present throughout the hearing. If they elect to be present, the victim/complainant may be present via teleconference or other appropriate medium as approved by the hearing body and/or hearing advisor.
- Students have the right not to have irrelevant, unfairly prejudicial past history discussed during the hearing.
- The charged student and complainant may have an advisor present for investigatory meetings, hearings, and all other official meetings relating to the disciplinary process. While reasonable attempts will be made to accommodate scheduling conflicts for all participants, an advisor's inability to attend any scheduled investigatory meetings, hearings, or any other official meetings relating to the disciplinary process will have no impact on whether the university moves forward with such meetings or hearings.
- The charged student and complainant must be given an opportunity to testify and to present information and witnesses.
- All matters upon which a decision might be based must be introduced into evidence during the proceedings. The decision should be based upon the totality of the evidence.
- Disciplinary hearings are private except for necessary University officials, involved parties, and advisors. Recording devices of any kind are not permitted for use by the students, witnesses, or advisors.

**9. Amnesty**

Loyola University strongly encourages victims and individuals to report all Code of Conduct violations, sex discrimination, violence in general (including sexual violence) and medical emergencies. It is likely that many victims may be hesitant when it comes to reporting conduct that he/she believes violates the Code of Conduct or University policy because of fear that they personally may be accused of violating policies or sections of the Code in connection with the incident they are reporting.

Underage drinking is a common example of conduct that may have occurred during such an incident. Because of the importance of reporting serious incidents, and in order to encourage reporting, Loyola will not normally charge a victim who reports a violation of the Code of Conduct or University policy, even though the victim may have participated in a non-violent violation of the Code of Conduct or University policy (e.g., unauthorized use of alcohol). Loyola may also elect to extend amnesty to students who report medical emergencies that may have occurred during an incident involving a potential conduct violation. In such cases, however, Loyola may exercise its discretion to impose educational sanctions as a required activity intended to engage the student in a positive learning experience related to the student's inappropriate behavior.

**10. Separation order**

A Separation Order shall prohibit named students from contacting, emailing, telephoning, or otherwise disturbing each other. In situations where the VPSA/AP or their designee has reason to believe that an alleged violation of harassment, or a physical and/or sexual nature may have occurred on campus, a Separation Order can be issued. The Separation Order will not prohibit students named from attending classes or any other campus activity (even though students named may be enrolled in the same class(es)). Normally, the duration of the directive will be noted on the administrative action. Should the situation result in University disciplinary action, the administrative action will continue concurrently.

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The Separation Order will not be construed as a finding of responsibility on the part of any student. It may require moving the student(s) named to another residence hall or removing the student(s) from the residence hall environment.

Violation of the terms or conditions of the on-campus Separation Order may subject the student to disciplinary action without regard to the outcome of the case that led to the issuance of the administrative action.

A student seeking a Protective and/or Restraining Order from the city or state can receive assistance in the process by contacting University Police.